

IN THE UNITED STATE DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION

MONICA DANIEL HUTCHISON,)
)
Plaintiff,)
)
vs.)
)
TEXAS COUNTY, MISSOURI;)
MICHAEL R. ANDERSON,)
TEXAS COUNTY PROSECUTING)
ATTORNEY; and)
MICHAEL R. ANDERSON, individually)
)
Defendants.)

Case No.: 09-3018-CV-S-RED

Jury Trial Demanded

SUGGESTIONS IN SUPPORT OF PLAINTIFF'S MOTION FOR LEAVE
TO ADD ADDITIONAL EXHIBIT TO PLAINTIFF'S AMENDED EXHIBIT LIST

COMES NOW Plaintiff, Monica Daniel Hutchison, by and through counsel, and for her Suggestions in Support of her Motion for Leave to Add Additional Exhibit to Plaintiff's Amended Exhibit List states as follows:

On February 22, 2011, Defendant Michael R. Anderson was deposed in the case of Mildred Williams v. Michael R. Anderson, a case pending in Webster County, Missouri involving similar issues to those presented in Plaintiff's claims for malicious prosecution, abuse of process, and intentional infliction of emotion distress.

As alleged in Plaintiff's Second Amended Complaint, document #53 in this case, the Plaintiff in the Webster County case, Mildred Williams, was present and staying overnight at Plaintiff's house on the night of December 18, 2005 when the events alleged in paragraph #12 m and n occurred. Furthermore, Mildred Williams was named as a co-defendant in the lawsuit filed by Defendant Michael R. Anderson against Plaintiff Monica Daniel Hutchison (Exhibit B to Plaintiff's Second Amended Complaint).

In the course of the deposition referenced above Defendant Anderson, for the first time, indicated, when asked what kind of research he did before he filed the suit against Monica Daniel and Mildred Williams, that in addition to looking at libel and slander laws, “there was another case similar in nature involving public officials down in Douglas County; I looked at some of the facts in that case.” (Deposition of Anderson in Williams v. Anderson, pg. 94, lines 22-25.) He further testified that he “got a copy of the petition and some of the filings” in that case; (Deposition of Anderson in Williams v. Anderson, pg. 107, lines 22-23), and reiterated that he contacted the court and “I got a copy of a lawsuit that had been filed down there and I read through it.” Deposition of Anderson in Williams v. Anderson, pg. 145, lines 5-7.

Upon learning of this information that Defendant Anderson reviewed prior to filing his suit against Plaintiff, Plaintiff’s counsel obtained a certified copy of the file in the matter of Roger Wall v. Larry Tyrrell, et al., which ended up being transferred to the 25th Judicial Circuit, Phelps County, Missouri, and involved several defendants who were attorneys in Douglas County, Missouri. The exhibit Plaintiff seeks to add is this certified copy of the Court file in that case, a copy of which Plaintiff has provided to Defendant. A review of the “damage complaint” filed in that case revealed striking similarities with the strangely labeled “damage complaint” that Defendant Anderson filed in state court against Plaintiff Monica Daniel and Mildred Williams, including the unique and inaccurate label on the pleading. For the court’s information, a copy of that “damage complaint,” which constitutes a part of the certified file Plaintiff is requesting leave to add to her exhibit list, is attached hereto as Exhibit A.

Defendant Anderson will not be prejudiced by this disclosure because he has had this exhibit since before he filed suit against Plaintiffs Monica Daniel Hutchison and Mildred Williams on May 31, 2006, so there is nothing new or surprising about the material in the exhibit.

Plaintiff did not list it in her original Amended Exhibit List because she was unaware at that time that this court file is part of what Defendant Anderson reviewed and considered prior to filing his lawsuit against her until Defendant Anderson so testified on February 22, 2011 in the companion case of Mildred Williams v. Michael R. Anderson currently pending in state court.

WHEREFORE, Plaintiff requests leave to add a certified copy of the court file in Roger Wall v. Larry Tyrrell, et al., Case No.: 25V03050300C, Circuit Court of Phelps County, Missouri to her Amended Exhibit List and for such other and further relief as to the Court deems proper.

Respectfully Submitted,

STEELMAN, GAUNT & HORSEFIELD

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I, Stephen F. Gaunt, hereby certify that on the 8th day of March, 2011 the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system which sent notification of such filing to:

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Counsel for Defendant Michael Anderson

/s/ Stephen F. Gaunt
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